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FISCAL IMPACT REPORT

SPONSOR: SFC DATE TYPED: 03/21/03 HB _____
 SHORT TITLE: Increase Cigarette Tax SB CS/804,336,717,835/aSFI#1/aHTRC/aHFI #1
 ANALYST: Williams/Neel

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	\$8,740.0			Recurring	UNM HSC
	\$3,680.0			Recurring	DOH/Capital Program Fund
			*\$9,568.0	Recurring	Credit Enhancement Account to General Fund

(Parenthesis () Indicate Expenditure Decreases)

* Contingent upon sufficient funding for immediate debt service payment

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$8,740.0	\$9,500.0	Recurring	New Mexico Finance Authority for UNM HSC
	\$3,680.0	\$4,000	Recurring	New Mexico Finance Authority for DOH/Capital Program Fund
	\$21,252.0	\$23,100.0	Recurring	General Fund
	\$9,568.0	\$10,400.0	Recurring	Credit Enhancement Account

(Parenthesis () Indicate Revenue Decreases)

Relates to SB 133, SB 292, SB 336, SB 528, SB 717, SB 730, SB 804, SB 835
 HB 488, HB 954
 SB 656/HB 558: Amend Hospital Funding Act
 HB 2, HB 7, SB 2, SB 655
 SB 298

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of HF1 #1 Amendment

The House Floor amendment strikes the emergency clause and other effective dates and replaces them with:

- August 1, 2003 for distribution from the cigarette tax; and
- July 1, 2003 for all other sections of the bill including the tax increase.

This reduces the impact of the revenue increase by 1/12, because the taxes will be collected in July of 2003 but will not be recognized until August 2003; the above FY04 impact reflects the partial year impact.

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee's Amendment strikes Senate Floor Amendment #1 that increased the other tobacco products tax from 25 percent to 35 percent of the value of the product.

The HTRC amendment also adds a distribution (15.95%) from the cigarette tax for the Credit Enhancement Account as a contingency if cigarette tax revenues decline thereby affecting the state's ability to service the authorized bonds. The amounts deposited in the Credit Enhancement Account are pledged for additional security on bonds issued by NMFA for UNM Hospital, Cancer Research and Treatment Center and improvement of health facilities. Currently, available debt service schedules reflect sufficient revenues to make debt service obligations for fifteen years based on current assumptions on sales tax volumes. The amount of the Credit Enhancement Account that is not used to service bonds will be deposited monthly in the General Fund.

After the bonds issued pursuant to SB 804 are paid in full, and upon an associated certification by NMFA, the 15.95 percent distributed for the Credit Enhancement Account will be redirected to the General Fund.

The amendment added language prohibiting new laws that adversely affect payment on outstanding revenue bonds. An emergency clause is also added.

Significant Issues on HTRC Amendment

The new earmarked distribution increases the coverage ratio from 1.23x - 1.34x to between 2.47x - 2.69x (based on calculations by JP Morgan). Concern has been expressed that under the distribution rates included in SB 804, revenues may not be sufficient for debt service payments in light of the size of the cigarette tax increase (\$.70), potential federal cigarette tax increases and the presence of tribal cigarette sales.

The amendment does not set up a reserve mechanism to set aside the upcoming debt payment. Therefore, it appears that there may not be a general fund impact absent of reduced cigarette revenues.

Distributions under the SB 804 and the HTRC amendment are detailed below:

	Current SB 804	HTRC
Total Revenue after Tax Increase	Distributions	Distributions
State General Fund	71.89%	55.94%
Recreation Fund	1.36%	1.36%
Cigarette Fund	2.72%	2.72%
UNM Cancer	1.36%	1.36%
NMFA (UNM)	2.04%	2.04%
UNM	14.52%	14.52%
GSD	6.11%	6.11%
Proposed (Credit Enhancement Acct)	N/A	15.95%

Questions:

- Should be the General Fund bear the cost to ensure higher bond ratings rather than the beneficiary or NMFA?

Synopsis of SFI #1 Amendment

The Senate Floor Amendment # 1 increases the Tobacco Products Tax from 25 percent of the value of the product to 35 percent, which makes the tax rates, when compared to the value of the respective product, commensurate to the cigarette tax increase.

Synopsis of Original Bill

The Senate Finance Committee Substitute for Senate Bills 804, 336, 717 and 835 authorizes an increase in the cigarette tax from the current \$0.21 per pack to \$0.91 per pack. This increase would rank New Mexico’s cigarette tax 18th among the states based on rates in place in early January. This ranking may change because at least fourteen other states are considering higher cigarette taxes.

The Substitute would increase total revenues by \$47 million. The revenue estimate uses an assumption of an elasticity of 0.7, i.e. as the tax increases, the incremental amount received in revenues declines because the volume of the product sold is reduced. The Substitute authorizes two new distributions of net receipts attributable to the tax, specifically approximately 14.52 percent of the tax to the New Mexico Finance Authority (NMFA) for the University of New Mexico Health Science Center (UNM HSC) and 6.11 percent for the New Mexico Finance Authority for Department of Health (DOH) facilities improvements.

The General Fund would receive the residual of the cigarette tax increase after these two distributions are made. Current cigarette tax distributions to all other funds are adjusted to hold them harmless compared to projected FY04 revenue levels.

UNM HSC Component. The bill authorizes the New Mexico Finance Authority to issue revenue bonds with a term of up to fifteen years for an issuance of no more than approximately \$60 million for design, construction, equipping and furnishing additions and improvements at the

UNM HSC and the Cancer Research and Treatment Center at UNM HSC. The new distribution of the cigarette tax is authorized to be pledged as a revenue stream to repay bond holders as well as for issuance, sale and administration costs associated with the bonds. The New Mexico Finance Authority is authorized to pledge funds in the public project revolving fund to these revenue bonds if necessary.

Any balance remaining, after all bond obligations are met, would be appropriated on a monthly basis to UNM HSC. The legislation directs statutory changes to cigarette tax imposition, collection or distribution could not be enacted which would harm the issuer's ability to repay bond holders. Upon repayment of the bonds, the NMFA distribution for the UNM HSC would be redirected to the General Fund.

DOH Component. The bill authorizes the New Mexico Finance Authority to issue revenue bonds for improvements for Department of Health facilities upon certification by the Secretary of Finance and Administration of the need for the bonds. Proceeds from the sale of the bonds is appropriated to the capital program fund administered by the Property Control Division of the General Services Department. The new distribution of the cigarette tax is authorized to be pledged as a revenue stream to repay bond holders as well as for issuance, sale and administration costs associated with the bonds. The New Mexico Finance Authority is authorized to pledge funds in the public project revolving fund to these revenue bonds if necessary.

Any balance remaining, after all bond obligations are met, would be appropriated on a monthly basis to the capital program fund for capital improvements to Department of Health facilities. The legislation directs statutory changes to cigarette tax imposition, collection or distribution could not be enacted which would harm the issuer's ability to repay bond holders. Upon repayment of the bonds, the NMFA distribution for DOH facilities would be redirected to the General Fund.

According to the Capital Improvement Plan submitted by the Department of Health, there is approximately \$50 million of infrastructure and capital improvement needs during fiscal year 2003-04 at six main facilities. These are primary care facilities that provide medical, geriatric, mental health, alcohol and drug rehabilitation, and physical rehabilitation for residents in New Mexico without insurance or other financial means. The Sequoyah Treatment Center in Albuquerque, the Secure Forensic Unit at Las Vegas Medical Center and a leased facility in Los Lunas receive clients from the judicial system who are developmentally disabled or who have a tendency to commit violent crimes. The facilities are substandard and inadequate to provide the necessary care to these individuals.

FISCAL IMPLICATIONS/RELATIONSHIPS TO OTHER LEGISLATION

The Substitute relates to revenue, appropriations and bonding components of various bills including cigarette tax increases, tobacco settlement funds, appropriations as well as revenue bonding proposals to assist UNM HSC.

AW:SN/sb:yr:njw